THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15260 of 2006

27.7.2006

Between:

Pittali Ramesh, S/o.late Sesha Rao
And others

… Petitioners

AND

The Joint Collector, Mahabubnagar
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15260 of 2006

ORDER:

This writ petition is filed assailing the order of the first respondent dated 12.7.2006 passed in exercise of revisional jurisdiction under Section 9 of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). This case came to be filed in the following background.

The fourth respondent purchased land admeasuring Acs.3.39 guntas in survey No.5/EE under registered sale deed dated 01.9.2003 and thereafter she obtained mutation in her favour from the Mandal Revenue Officer, Amangal Mandal (MRO). The petitioners herein claiming to be purchasers under agreement of sale/simple sale deed allegedly executed by the vendor of the fourth respondent in 1978, based on which, filed an application purportedly under Section 5A of the Act. Be that as it is, the petitioners filed an appeal under Section 5(5) of the Act before the Revenue Divisional Officer, Mahabubnagar (RDO), who by an order dated 01.5.2006 allowed the appeal. The fourth respondent, therefore, filed a revision petition under Section 9 of the Act before the first respondent and when her application for stay was not taken up for consideration, she filed W.P.No.12363 of 2006. This Court disposed of the said writ petition on 22.6.2006 directing the first respondent to pass appropriate orders forthwith on the application filed by the fourth respondent for stay. It appears, thereafter, the first respondent called the case on 12.7.2006, heard both the Counsel appearing for rival parties and passed the impugned order. By the said order, the order of the RDO dated 01.5.2006 was set aside and the matter was remanded to the appellate authority to conduct fresh enquiry taking into consideration the counter filed by the fourth respondent herein before the RDO.

Learned Counsel for the petitioners, Sri K.Govind, strenuously contends that when the matter was coming up for consideration of stay

application, it was improper on the part of the first respondent to have disposed of the revision petition itself. Secondly, he would urge that no proper opportunity was given to the petitioners to make out their case in the final revision and, therefore, the matter requires to be remanded to the Joint Collector. **Per contra**, learned counsel for the fourth respondent, who took notice at the stage of admission itself, submits that the RDO allowed the appeal of the petitioners only on the ground that the fourth respondent did not file the counter in the appeal, which was not correct and, therefore, the first respondent having perused the case file and having found that the fourth respondent filed counter affidavit, remanded the matter to RDO observing that RDO decided the matter recording wrong facts. According to the learned Counsel, a writ petition such as this cannot be entertained for judicial review.

It is no doubt true that while disposing of W.P.No.12363 of 2006, this Court directed the Joint Collector to take up the stay application forthwith. It does not however mean that the first respondent is prohibited from hearing the main revision petition. Secondly, a perusal of the impugned order would show that on 12.7.2006 both the Counsel for rival parties appeared before the Joint Collector and made arguments. This fact situation recorded in the impugned order cannot brook any controversy. It is well settled that observations and proceedings recorded in the quasi-judicial order must be taken to be true and if there is any challenge to the proceedings recorded by quasi-judicial authority, the remedy lies before the same authority and not before any other forum or this Court. Nextly, as rightly observed by the first respondent, the RDO allowed the appeal of the petitioners only on the ground that the fourth respondent did not file counter affidavit. This Court has directed the learned Assistant Government Pleader to produce the relevant file, which is produced today. After perusing the same, this Court finds that at page Nos.49 to 61, counter affidavit of the fourth respondent is found. Though the said counter is filed in the interlocutory application in the appeal filed by the petitioners, it is a lengthy counter affidavit. Therefore, the RDO certainly committed error in coming to the conclusion that no counter affidavit was filed by the fourth respondent. As the RDO decided the matter ignoring the counter affidavit of the fourth respondent, the first respondent herein was justified in remanding the matter to the RDO, after setting aside the order of the RDO dated 01.5.2006. This Court does not find any

infirmity in the impugned order. The RDO may dispose of the appeal within a period of ten (10) days from the date of receipt of a copy of this order.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

July 27, 2006.
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